

TEXAS DEPARTMENT OF TRANSPORTATION

TxDOT: Open For Business

PASS-THROUGH FINANCE



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The *New* Texas Roadmaps



Texas has some *big transportation challenges*, but we have *big plans* that are producing *big results*. The Texas Department of Transportation has three key publications that will not only keep you up to speed, they'll put you in the driver's seat.

TxDOT Has a Plan is our strategic vision,

TxDOT: Open for Business shows you how to build projects faster,

and

Keep Texas Moving is our free bimonthly e-newsletter that lets you know what's going on as it happens.

You can find all these publications and Keep Texas Moving subscription information at:

www.TxDOT.gov – keyword: Strategic Plan

www.TxDOT.gov – keyword: Open for Business

www.TxDOT.gov – keyword: Keep Texas Moving



Pass-Through Financing is one of the ways in which the Texas Department of Transportation is proclaiming its status as “Open for Business,” and opening the door to private sector investments in our transportation system.

Our initiative, “TxDOT: Open for Business,” focuses on innovative financing as well as partnerships between the agency, local officials, and the private sector. It is a way to broaden the options available for solving the traffic congestion, safety and mobility issues that impact the quality of life for communities throughout the state.

As always, TxDOT will be there as a guide through the process of developing a Pass-Through Financing project and acting as an advocate for communities interested in implementing transportation solutions. We’re open for business and ready to get to work with you.

Our Goals

We have developed five well defined goals to help us achieve our mission and make it easy for the public to evaluate our effectiveness:

1. Reduce
congestion
2. Enhance
safety
3. Expand
economic opportunity
4. Improve
air quality
5. Increase
the value of transportation assets



Pass-Through Financing is a new financing tool being used to stretch already limited tax highway dollars and help meet the state's transportation goals. Essentially, Pass-Through Financing is a way for project developers to fund and be reimbursed for the upfront costs of constructing or expanding a state highway project. The public or private entity developing the project will finance, construct, maintain and/or operate a project. TxDOT will then reimburse a portion of the project cost by making periodic payments to the developer for each vehicle that drives on the highway. A new highway project can be tolled or non-tolled.

This innovative option helps local communities get a needed transportation project financed and built more quickly than the traditional state program. TxDOT can execute Pass-Through Financing agreements with a regional mobility authority, regional tollway authority, city, county, public or private developer.

One benefit for communities is that they will be reimbursed by the state as travelers use the project. If the use of the road is high, the state will repay at a faster rate. If the traffic is lower than projected, repayment will occur over a longer period. Either way, the state still pays for a portion of the project.

A Pass-Through Financing proposal is first reviewed by TxDOT staff and then ultimately approved by the Texas Transportation Commission, which bases approval on various criteria, including the determination that the project serves the public interest. Project schedule and estimated budget are also important elements of a Pass-Through Financing proposal.

The Pass-Through Financing Advantage

WHEN A TOLL IS NOT A TOLL

Once built, Pass-Through Financed projects look just like traditional tax-funded highways in that they do not require toll collection equipment or plazas. The difference is how the road is paid for. Monies typically paid by motorists in conventional tolling are instead paid by TxDOT as reimbursement to the public or private entities.

Traffic usage and public acceptance are higher with Pass-Through Financed projects because motorists are not impacted by the out-of-pocket expenses associated with toll collection.

Proposal and Approval Process

Any public entity (Regional Mobility Authority, Regional Tollway Authority and local/county governments) or private developer can submit an application to fund a transportation project using Pass-Through Financing. The application form can be obtained from TxDOT's Finance Division. The application should be submitted to the local TxDOT district office for review.

The application requires specific information (see Texas Administrative Code, Title 43, Pt. 1, Chapter 5, Rule 5.53, for additional detail) including:

- Project description, including limits, connections with other facilities and consultant services
- Statement of benefits resulting from project completion
- Description of local support/opposition to the project (documentation can

include commissioners' court, city council, metropolitan tolling authority or metropolitan planning organization resolution)

- Proposed project development and implementation schedule
- Project costs broken down by significant cost elements (e.g., design, right of way, utilities and construction)
- Funding sources by year (e.g. Pass-Through Financing, conventional tolling or local participation) for financing 100 percent of the project costs
- Project map
- The sponsoring developer's experience and qualifications

After an initial review by the TxDOT district office, the proposal/application is forwarded to TxDOT's Finance

Division. If needed, TxDOT's Turnpike Division may conduct Pass-Through Financing analysis (for more information, see Page 4). Based on the results of TxDOT's review, the department will make a recommendation to the Texas Transportation Commission. If the proposal is submitted by a private developer, TxDOT will seek competitive proposals to select the best value for taxpayers. The Commission approves all negotiated and final terms for all proposals.

Commission approval is based on several factors, including financial benefits to the state, local support for the project, congestion relief and regional air quality benefits, compatibility with existing or planned transportation projects, the developer's experience in developing highway projects and whether or not the project is in the Unified Transportation Program (UTP).



"It demonstrates how local and state entities, governmental entities work together to accomplish what is the citizens request. And that is what is so important about this project. This brought together our council of neighborhood associations, everyone, on a big transportation project."

Susan Narvaiz
Mayor of San Marcos

Elements of Pass-Through Financing Agreements

In general, a Pass-Through Financing Agreement identifies the responsibilities of TxDOT and the developer, and defines the following:

SCOPE OF WORK

The scope of work describes the project and includes project maps, schedule and estimated costs.

BUDGET

The budget determines the financial responsibilities for each participating entity. It defines the amount of TxDOT's contribution and the financial responsibilities of the private or public entity. The agreement also states the financial terms of the project, including the level of pass-through tolls, maximum and minimum periodic payments and a total payment.

ENVIRONMENTAL STUDIES AND MITIGATION

This section outlines the environmental responsibilities of each party. In a typical agreement, TxDOT is responsible for all coordination and corresponding communication with the public/private entities. Also, TxDOT and the Federal Highway Administration independently evaluate all environmental documentation.

The developer is responsible for identifying and assessing any environmental issues associated with the project, as well as the costs of all environmental studies, permitting, mitigation, remediation and compliance. As TxDOT is responsible for making all necessary filings with the appropriate agencies, the developer provides TxDOT with final drafts of all necessary requests for permits, reports, and findings. Also, the developer provides TxDOT with written certification and documentation showing that all required environmental permits, issues and commitments have been or will be completed.

ENGINEERING SERVICES

The developer is responsible for architectural and engineering services until the completion of the project.

RIGHT OF WAY AND REAL PROPERTY

The developer is responsible for acquiring any needed right of way or real property, and agrees that all project rights of way are placed in the state's name. All applicable state and federal laws, regulations, policies and procedures, including those outlined in TxDOT's Right of Way Manual Collection, must be followed. The developer is also responsible for any required relocation assistance along the right of way. TxDOT may monitor and audit the developer's right of way acquisition at any time.



UTILITIES

The developer is responsible for the adjustment, removal or relocation of utilities in accordance with all applicable state and federal laws, regulations, rules and policies.

CONSTRUCTION RESPONSIBILITIES

The developer advertises construction bids, issues bid proposals, receives/tabulates the bid and awards the contract. It also oversees all construction operations, ensuring all environmental permits, issues, coordination, mitigation and commitments are adequately addressed. It also assesses potential environmental effects of contract revisions and obtains environmental permits, and is responsible for the coordination, mitigation and commitments that may be required by contract revisions.

MAINTENANCE

TxDOT is responsible for project maintenance after completion of most Pass-Through Financed projects; however, operation and maintenance of the facility can be included in the Pass-Through Financing agreement.

REPAYMENT

TxDOT reimburses the developer by paying an annual amount for each vehicle-mile traveled (or other measurement of usage) that takes place on highway improvements that were substantially complete and open to the public at any time during previous year. The reimbursement has a minimum and maximum annual dollar amount, and a maximum total repayment.



Pass-Through Financing Feasibility Analysis

After the local TxDOT District Office and Finance Division evaluate a Pass-Through Financing proposal, the Turnpike Authority Division may be asked to conduct a toll feasibility analysis. This will allow stakeholders to make informed decisions about project funding and potential benefits to the state transportation system. A toll feasibility analysis examines three scenarios:

- **Low Traffic Growth Rate Scenario** – presents the potential minimum annual payments TxDOT would make under a Pass-Through Financing agreement.
- **High Traffic Growth Rate Scenario** – presents the potential maximum annual payments TxDOT would make under a Pass-Through Financing agreement.
- **Conventional Tolling Scenario** – examines the project's feasibility as a candidate toll project, in which it would generate a portion of the costs for development, construction, operation, and maintenance. This scenario may consider a different typical section than the pass-through scenarios, assuming the project functions as a conventional toll project. Adjustments may also be made to the traffic projections to allow for any disincentive of the public to use conventionally tolled facilities. This examination is for comparison purposes only.

These scenarios assume that a public or private developer finances and constructs the project and that TxDOT pays a portion of the project cost by reimbursing the developer a portion of the amount that each user would pay in tolls if conventionally tolled.

The analysis considers the following factors: projected traffic, estimated Pass-Through revenue, project costs, implementation schedule, estimated maintenance costs. The information needed to conduct the analysis includes:

- Limits/length of the proposed project
- Existing and proposed facility
- Historical traffic counts and forecasts
- Existing studies of the area (e.g. environmental assessments, environmental impact studies, etc.)
- Existing project schematics and cost estimates
- Possible revenue from conventional tolls

The toll feasibility analysis takes approximately five weeks to complete. Based on the results, a recommendation on the Pass-Through Financing proposal is forwarded to the transportation commission.

HOW TO GET STARTED

TxDOT is "Open for Business" and we're ready to help you improve traffic flow and safety in your community. The first call you make is to Nancy Reinert, Coordinator, Finance Division and Dorn E. Smith, Manager, Finance Division. You'll work in concert with them and with the TxDOT professionals in your area who know about these mobility tools and will be your partners in this process.

We want to thank you for your interest and commitment to improving the transportation network in your community and the entire Lone Star State.

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